



CANNON BUILDING
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STATE OF DELAWARE
DEPARTMENT OF STATE

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DIVISION OF PROFESSIONAL REGULATION

PUBLIC MEETING NOTICE:	BOARD OF DENTISTRY & DENTAL HYGIENE
DATE AND TIME:	Thursday, September 15, 2011 at 3:00 p.m.
PLACE:	861 Silver Lake Boulevard, Dover, Delaware Conference Room A , second floor of the Cannon Building
APPROVED:	November 4, 2011

MEMBERS PRESENT

Neil McAneny, DDS, Professional Member, President
Blair Jones, DMD, Professional Member, Secretary
Thomas Cox, DDS, Professional Member (entered at 3:29 p.m.)
John Lenz, DDS, Professional Member
Robert Director, DDS, Professional Member
Joan Madden, RDH, Professional Hygiene Member
Cheryl Calicott-Trawick, Public Member (entered at 3:15 p.m.)
Nathaniel Gibbs, Public Member
Bernadette Evans, Public Member
Fay S. Rust, RDH, Hygiene Advisory Member
Bonnie Thomas, RDH, Hygiene Advisory Member

MEMBERS ABSENT

Debra Bruhl, RDH, Hygiene Advisory Member

DIVISION STAFF/DEPUTY ATTORNEY GENERAL PRESENT

Allison Reardon, Deputy Attorney General
Michele Howard, Administrative Specialist II
Kristin Gibbons, DPR Hearing Officer

PUBLIC PRESENT

William Sudell, Attorney General's Office
Peter F. Subach
Karen Hellstern
Bonnie Edmiston
Gil Shelsby
Joan Kluger

CALL TO ORDER

Dr. McAneny called the meeting to order at 3:06 p.m.

REVIEW AND APPROVAL OF MINUTES

The Board reviewed the minutes of the August 25, 2011 Board meeting. Dr. Jones made a motion, seconded by Dr. Lenz, to approve the minutes as presented. The motion passed unanimously. Dr. McAneny introduced and welcomed new public member, Bernadette Evans.

DISCIPLINARY HEARING, DR. PETER F. SUBACH

PRESENT: Dr. Blair Jones, Dr. John Lenz, Dr. Robert Director, Joan Madden, Nathaniel Gibbs, Cheryl Calicott-Trawick, Bernadette Evans, Dr. Thomas Cox

RECUSED: Dr. Neil McAneny, Fay Rust, Bonnie Thomas

PRESIDING: Dr. Blair Jones, Secretary

BOARD STAFF: Michele Howard, Administrative Specialist II

DEPUTY ATTORNEY GENERAL FOR THE BOARD: Allison Reardon

PROSECUTING ATTORNEY FOR THE STATE: William Sudell

WITNESSES FOR THE STATE: Joan Kluger

RESPONDENT: Dr. Peter F. Subach

COUNSEL FOR THE RESPONDENT: Gilbert F. Shelsby, Esquire

WITNESSES FOR THE RESPONDENT: None

COURT REPORTER PRESENT: Vincent J. Bailey, Wilcox and Fetzer

The hearing began at 3:21 p.m. The court reporter took verbatim testimony. DAG Reardon, the Board members, Mr. Sudell, Mr. Shelsby and Dr. Subach introduced themselves. Ms. Reardon read aloud the purpose of the hearing. Mr. Sudell made an opening statement. Mr. Shelsby made an opening statement. Dr. Cox joined the hearing at 3:29 p.m. Ms. Reardon asked Mr. Sudell and Mr. Shelsby if either party objected to Dr. Cox joining the hearing during Mr. Shelsby's opening statement. Neither the State nor the Respondent had any objection to Dr. Cox's participation. The State called its first witness, Joan Kluger. Ms. Kluger was sworn in by the court reporter. Mr. Sudell, Mr. Shelsby and members of the Board questioned Ms. Kluger and Ms. Kluger responded. Mr. Shelsby made an objection regarding hearsay and the Board sustained the objection. Ms. Kluger was further questioned and she responded. Mr. Sudell introduced the *Informed Consent for Oral Surgery and Anesthesia* signed by Ms. Kluger's son as State's Exhibit 1. Mr. Shelsby introduced a document signed by Ms. Kluger's son regarding his allergies. Mr. Sudell objected to the introduction of the document. The Board overruled the objection and allowed the document to be admitted as Respondent's Exhibit 1. The State rested. Mr. Shelsby moved for a dismissal of the complaint. Mr. Sudell argued against the dismissal. Mr. Shelsby argued for the dismissal. The Board went off the record at 4:22 p.m. to deliberate the Respondent's motion for dismissal. The Board went back on the record at 4:35 p.m. Dr. Director made a motion, seconded by Mr. Gibbs, to deny the request for dismissal and move forward with the hearing. The vote was tied with Dr. Director, Dr. Cox, Dr. Jones and Mr. Gibbs voting in favor of denying the dismissal and continuing with the hearing. Dr. Lenz, Ms. Evans, Ms. Madden, and Ms. Calicott-Trawick voted against denying the dismissal. Ms. Calicott-Trawick made a motion, seconded by Ms. Evans, to grant the Respondent's motion to dismiss the complaint. The motion to grant the Respondent's motion to dismiss was passed by a majority vote with Dr. Lenz, Dr. Jones, Dr. Cox, Ms. Evans, Ms. Calicott-Trawick, and Ms. Madden voting for the dismissal. Dr. Director and Mr. Gibbs voted against the dismissal. Ms. Reardon advised that the complaint was dismissed and a Board Order would be drafted. The hearing concluded at 4:40 p.m.

The Board took a break at 4:40 p.m. and reconvened at 4:53 p.m.

UNFINISHED BUSINESS

Validation of Dental and Dental Hygiene Clinical Exams – (to be reviewed by Exam Committee)

Ms. Howard reported that Temple's evaluations for both the dental and dental hygiene clinical exams have been received by the Board office and will be reviewed by the Exam Committee at a later date.

Joint Sunset Committee Review

Proposal to Change the Qualifications to Take Clinical Exams – Review Draft from Ms. Reardon

Ms. Reardon drafted a proposal of a bill to be submitted to the Joint Sunset Committee and distributed copies for the Board's review. Dr. Director asked if the proposal should include dentists as well as hygienists. Ms. Reardon will revise the draft bill to include dentists and present it at the next meeting.

Review of Proposed Legislation Regarding Chaperoning Children (HB 456) – Ms. Reardon

Ms. Reardon distributed a draft of proposed language for the Board's review regarding the treatment or examination of minors. The draft included the same definitions of "minor" and "adult staff member" as used by the Medical Board. Dr. Director asked to revise the draft omitting the minor's option to decline the presence of a parent or legal guardian. Ms. Rust expressed concern that intellectually challenged adults should be addressed in the bill. Ms. Reardon will revise the draft and present it to the Board at its next meeting.

Final Denial of Application

Jeffrey M. Wilson, Dentist Limited

Ms. Reardon advised the Board to table the final denial of Dr. Wilson's application because Dr. Wilson accepted notice of the Board's proposal to deny his license on 9/6/11, and has 10 days to request a hearing.

Initial Accreditation by CODA – Nemours / A.I. DuPont Hospital for Children

Pending Director Application for Dr. Joseph Napoli – Update from Ms. Howard

Ms. Howard reported that the Board office was in receipt of a signed statement from Dr. Napoli confirming that he is not currently practicing dentistry in Delaware. Ms. Howard added that Dr. Napoli's application for licensure is still incomplete and will be forwarded to the Board for review once three missing documents are received.

Review Draft of Amended Rules and Regulations Governing Anesthesia – Ms. Reardon

Ms. Reardon distributed a copy of proposed amendments to Regulation 7.0 for the Board's review and discussion. Ms. Reardon will revise the draft per the Board's recommendations and present it at the next meeting.

Anesthesia Advisory Committee (AAC) – Update from Dr. McAneny

Dr. McAneny stated that Dr. Giordano would like to resign from the Anesthesia Advisory Committee. Dr. Giordano will remain on the committee until the completion of Dr. Fay's hearing, which is currently scheduled for November 4, 2011. Per Dr. McAneny's instruction, Dr. Giordano will appoint two replacements for the Committee.

NEW BUSINESS

Ratification of Licenses/Permits Issued by DPR Since August Board Meeting:

Dentist License - None

Dental Hygienist License

Tina C. Roberts

Melody Ann Gray

Brian David Walp

Elizabeth Pauly Taylor

Ms. Rust made a motion, seconded by Ms. Thomas, to ratify the licensure of Tina Roberts, Melody Gray, Brian Walp and Elizabeth Taylor. The motion passed unanimously.

Dentist Limited Resident - None

Restricted Permit I - None

Restricted Permit II - None

Unrestricted Permit - None

Review of Applications for Licensure - None

Request for AADB Board Liaison – Dr. McAneny

Dr. Director will continue to be the AADB Board Liaison for Delaware. Ms. Howard will email Dr. Director's contact information to the AADB.

Memo From Director Collins re 2012 Legislative Session

Ms. Reardon summarized a memo from DPR Director James Collins regarding proposed legislative changes for the upcoming 2012 legislative session. Ms. Reardon advised that all proposals should be submitted to the Division no later than 11/16/11. Ms. Reardon will present the Board's draft legislation to the Board at its next meeting. Once approved, the proposal will be forwarded to Mr. Collins.

Review of Senate Bill 31 – Ms. Reardon

Ms. Reardon summarized Senate Bill 31 for the Board, advising them of revisions included in the statute of all health care professions pertaining to sexual criminal offenses and how they affect licensure and applications for licensure.

Election of Officers

President

Dr. McAneny called for nominations for Board President. Dr. Director nominated Dr. Jones. Dr. McAneny seconded the motion. There being no additional nominations, the Board voted unanimously to appoint Dr. Jones as the Board's President.

Secretary

Dr. McAneny called for nominations for Board Secretary. Dr. McAneny nominated Dr. Lenz. Dr. Jones seconded the motion. Dr. Director nominated Dr. McAneny. There being no second, the nomination failed. The Board voted unanimously to appoint Dr. Lenz as the Board's Secretary.

The Board thanked Dr. McAneny and Dr. Jones for their service as President and Secretary. Dr. McAneny thanked the Board members for all of their hard work.

COMPLAINT STATUS

Dr. McAneny reported the following complaint statuses:

Complaint 09-03-10 (Lenz)	Hearing Scheduled for 11/4/11, 10:15 a.m.
Complaint 09-12-10 (Lenz)	Closed by Investigator

CORRESPONDENCE

Invitation from American Association of Oral and Maxillofacial Surgeons to Attend Reception on 10/11/11 in Las Vegas, NV

Ms. Howard notified the Board of an invitation to attend the reception of the American Association of Oral and Maxillofacial Surgeons on 10/11/11 in Las Vegas. Ms. Howard will RSVP that no Board members will attend.

OTHER BUSINESS BEFORE THE BOARD (for discussion only)

2012 Meeting Schedule

Ms. Howard distributed the 2012 meeting schedule, and pointed out that all of the 2012 meetings were scheduled to be held in Conference Room A to accommodate the size of the Board.

Ms. Madden asked when a public hearing would be held regarding the Board's proposal to change from a pre-renewal audit to a post-renewal audit. Ms. Reardon advised that the proposed amendments would be published in the Register of Regulations on November 1st and a public hearing would be held at the Board's December meeting. Ms. Madden questioned whether the Board would notify licensees of the changes. Ms. Reardon explained that a notice of the public hearing will be advertised in two newspapers and that written comments may be submitted to the Board office for the Board's review at the hearing. The public is also invited to attend the public hearing to comment on the Board's proposed changes. It is the responsibility of all licensees of all professions to know their Board's Statute and Rules & Regulations. It is not the responsibility of the Board to notify licensees of changes. As a courtesy (not a requirement), the Board may contact the Delaware Dental Hygienists' Association or the Delaware State Dental Society to inform them of proposed changes or public hearings. However, whether or not the Board notifies the DDHA or DSDS, it is always the responsibility of individual licensees to keep current on the laws that govern their profession.

PUBLIC COMMENT

None

NEXT MEETING

The next Board meeting will be Friday, November 4, 2011, at **9:00 a.m. in the second floor Conference Room A** of the Cannon Building.

ADJOURNMENT

Ms. Madden made a motion, seconded by Dr. Director, to adjourn the meeting at 5:52 p.m. The motion to adjourn passed unanimously.

Respectfully Submitted,



Michele Howard
Administrative Specialist II